

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON, AT TACOMA**

MICHAEL ELLIOTT

Plaintiff,

vs.

BNSF RAILWAY COMPANY, a
Delaware corporation,

Defendants.

NO. 3:14-CV-05054-RBL

**DECLARATION OF SARA AMIES
IN SUPPORT OF PLAINTIFF'S
RESPONSE TO DEFENDANT'S
MOTION FOR SUMMARY
JUDGMENT**

I, Sara Amies, hereby declare under penalty of perjury under the laws of the State of Washington that the following statements are true and correct, that I am over the age of 18 and competent to testify to them, and that I do so from my own personal knowledge, except where otherwise specifically indicated below:

- 1) I am an attorney licensed to practice in Washington and before this Court.
- 2) I represent the Plaintiff, Michael Elliott, in this matter. Plaintiff Michael Elliott filed this action against Defendant BNSF for relief pursuant to the Federal Rail Safety Act, 49 U.S.C. §20109 ("FRSA").

A. Exhibits Identified

- 3) I attach hereto true and correct copies of the following Exhibits which have been exchanged with Defendant in this matter:
 - a. Exhibit 1: Excerpts of deposition of Mark Ricci;
 - b. Exhibit 2: Excerpts of deposition of Shahraim Allen;

- 1 c. Exhibit 3: Excerpts of deposition of Jerry Specht;
- 2 d. Exhibit 4: Excerpts of deposition of David Beech;
- 3 e. Exhibit 5: 10/26/10 Allan Manson email re: “Signal problem at Longview
- 4 Junction South”;
- 5 f. Exhibit 6: 10/21/10 email thread among FRA Agent James Kromwall, Elliott,
- 6 Jones, Johnson, etc.
- 7 g. Exhibit 7: Excerpts of deposition of Dennis Kautzmann.
- 8 h. Exhibit 8: Complaints about Kautzmann from Robin Ray, Harold McVay,
- 9 Mark McGafferty, and 9/9/09 testimony by Bram Babik;
- 10 i. Exhibit 9: 6/9/09 email to Jones, asking that Kautzmann be removed from his
- 11 role because his communication and leadership style was a safety issue;
- 12 j. Exhibit 10: 9/17/09 Human Resources note (Jones disregarded Elliott’s safety
- 13 concern about Kautzmann);
- 14 k. Exhibit 11: Excerpts of deposition of Benjamin Marx;
- 15 l. Exhibit 12: BNSF Management Leadership Model;
- 16 m. Exhibit 13: 7/30/10 email from Jones to Elliott;
- 17 n. Exhibit 14: 8/13/10 email thread from Elliott to Jones, Johnson, and BNSF
- 18 Safety Manager Robert Raglin;
- 19 o. Exhibit 15: 9/14/10 email from Elliott to Raglin, Jones, and Johnson re
- 20 “Signal problems at MP 85 and Nelson Bennett,” which UP Allan Manson
- 21 also reported to the FRA’s James Kromwell;
- 22 p. Exhibit 16: 12/22/10 email from Elliott to Jones about meeting with “BNSF
- 23 Signal (Jerry Specht)”;
- 24
- 25

- 1 q. Exhibit 17: 1/29/11 email from Signal Manager Specht to Assistant Vice
2 President for Signals, James LeVere, identifying Elliott as the conduit for UP
3 complaints;
- 4 r. Exhibit 18: 1/7/11 Specht email. "103 [trouble] tickets for 2010."
- 5 s. Exhibit 19: 1/18/11 email from FRA to BNSF re Notice of Focus Inspection;
- 6 t. Exhibit 20: FRA Inspection Reports between 1/19-2/25/11;
- 7 u. Exhibit 21: 3/28/11 letter from FRA to Elliott;
- 8 v. Exhibit 22: Excerpts of deposition of Douglas Jones;
- 9 w. Exhibit 23: 1/26/11 FRA Inspection Report, identifying a violation in Item
10 #2.
- 11 x. Exhibit 24: 1/29/11 email from NW Division West Signal Manager Jerry
12 Specht to Assistant Vice President for Signals James G. LeVere at BNSF
13 headquarters;
- 14 y. Exhibit 25: Elliott deposition excerpts;
- 15 z. Exhibit 26: Excerpts of 11/21/11 Testimony of Dennis Kautzmann in *State v.*
16 *Elliott*;
- 17 aa. Exhibit 27: 9/10/09 Witness Statement by David Beech;
- 18 bb. Exhibit 28: Excerpts of 11/17/11 Testimony of Salvatore Mastrullo in *State v.*
19 *Elliott*;
- 20 cc. Exhibit 29: 3/4/11 Kautzmann urgent care record;
- 21 dd. Exhibit 30: 9/28/11 Benjamin Marx testimony in 2011 Kautzmann
22 investigation;
- 23 ee. Exhibit 31: 11/22/11 Pierce Co. verdict forms in *State v. Elliott*;
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1 ff. Exhibit 32: 4/12/11 Investigation Worksheet Cover Page, identifying
2 Benjamin Marx as the Conducting Officer in the investigation of the 2007
3 report of conviction;
4 gg. Exhibit 33: 5/10/11 Benjamin Marx testimony in 2011 Kautzmann
5 investigation;
6 hh. Exhibit 34: 12/19/07, 1/7/08, 3/30/08 work release papers and letter;
7 ii. Exhibit 35: 11/29/07 Employee Assistance Program (EAP) "Episode of Care"
8 chart notes re Michael Elliott;
9 jj. Exhibit 36: Excerpts of deposition of Roland Hackney;
10 kk. Exhibit 37: 11/29/07 email from Dennis Kautzmann to Suellen James, EAP
11 coordinator, re: M.A. Elliott;
12 ll. Exhibit 38: 4/9/11 email between Union Rep. Reeves and Marx;
13 mm. Exhibit 39: 2008 LE certification form with 2008 driver license abstract, 2
14 pages, each showing fax transmission on 7/28/08 at 2:08 p.m.;
15 nn. Exhibit 40: 2008 LE certification form with 2005 drier license abstract, 2
16 pages. The second page is missing the fax transmission stamp that shows on the
17 first page;
18 oo. Exhibit 41: 4/21/11 email from James Hurlburt (Labor Relations) copying
19 Douglas Jones, recommending a third termination; and
20 pp. Exhibit 42: 9/28/11 BNSF recommends termination based on credibility
21 determinations.

22 DATED this 27th day of April, 2015.

23 Teller & Associates, PLLC, by

24 

25 Sara B. Amies, WSBA #36626
Of Attorneys for Plaintiff